

BEST AVAILABLE COPYAtty Dkt. No.: 10010218-3
USSN: 10/785,336**REMARKS**

Claim 20 has been amended to specify that each flow path has a cross-sectional area no greater than about 1 mm². Support for this amendment may be found in the specification, e.g., at paragraph 0044.

Claim 9 is withdrawn from consideration as being directed to non-elected subject matter.

No new matter has been added by the amendments herein. Accordingly, the Applicants respectfully request the entry therof.

ELECTION

The Applicants affirm the election of species C, Claims 1-8 and 10-20 for prosecution.

REJECTION UNDER 35 U.S.C. §102

Claims 1-5, 8, 10 and 18 are rejected under 35 U.S.C. §102(e) as being anticipated by US Patent No. 6,550,497 (Thiele et al.).

The enclosed declaration of Kevin Killeen and Hongfeng Yin, the inventors of the instant application, under 37 C.F.R. §1.131 demonstrates that the claimed subject matter of the present application was invented prior to June 20, 2001, the effective filing date of the cited reference. This declaration was also submitted in the instant application's parent application US Patent Application Serial No. 09/908,292, now issued as US Patent No. 6,702,256. As such, Thiele et al. is not a proper reference.

Since the Applicants have provided a declaration and facts that show invention prior to June 20, 2001, the effective filing date of the cited reference, Thiele et al. is not a proper reference and the Applicants respectfully request that the rejection of Claims 1-5, 8, 10 and 18 under 35 U.S.C. §102(e) be withdrawn.

Claim 20 is rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 5,251,670 (Bates).

Claim 20 has been amended to specify that each flow path has a cross-sectional area no greater than about 1 mm². Bates is directed to flush valves for alternatively supplying freshwater or seawater to marine engines. The Examiner refers to fluid conduits 24 and 26 and hole 48 of Bates as analogous to the claimed fluid transporting features. However, Bates does not describe that these features have a cross-sectional area no greater than about 1 mm², nor are any other feature of Bates so-described. At best, Bates is silent as to the cross-sectional dimensions of the features referred to

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by the Examiner, which renders the invention of Bates deficient in that which is required by Claim 20.

Accordingly, for at least this reason, Bates does not anticipate Claims 20. As such, the Applicants respectfully request that this rejection be withdrawn.

REJECTION UNDER 35 U.S.C. §103

Claims 6-7 are rejected under 35 U.S.C. 103(a) as unpatentable over US Patent No. 6,550,497 (Thiele et al.) in view of engineering expedient.

In view of the declaration submitted pursuant to 37 C.F.R. §1.131 which demonstrates that the claimed invention was invented prior to the effective filing date of Thiele et al., Thiele et al. is not a proper reference. Accordingly, for at least this reason this rejection cannot be sustained. As such, the Applicants respectfully request that this rejection be withdrawn.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as unpatentable over US Patent No. 6,550,497 (Thiele et al.) in view of US Patent No. 4,988,626 (Ajot et al.).

In view of the declaration submitted pursuant to 37 C.F.R. §1.131 which demonstrates that the claimed invention was invented prior to the effective filing date of Thiele et al., Thiele et al. is not a proper reference. Accordingly, for at least this reason this rejection cannot be sustained. As such, the Applicants respectfully request that this rejection be withdrawn.

Claims 16, 17 and 19 are rejected under 35 U.S.C. 103(a) as unpatentable over US Patent No. 6,550,497 (Thiele et al.) in view of US Patent No. 6,613,560 (Tso et al.).

In view of the declaration submitted pursuant to 37 C.F.R. §1.131 which demonstrates that the claimed invention was invented prior to the effective filing date of Thiele et al., Thiele et al. is not a proper reference. Accordingly, for at least this reason this rejection cannot be sustained. As such, the Applicants respectfully request that this rejection be withdrawn.

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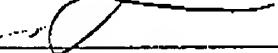
CONCLUSION

In view of the remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issue.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078, reference no. 10010218-3.

Respectfully submitted,

Date: 9/14/04

By: 
Susan Tall
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Date: 9/14/04

By: 
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Enclosures: Declaration under 37 C.F.R. §1.131

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